

COMMONWEALTH OF VIRGINIA
BOARD OF CORRECTIONS

Regular Meeting	May 21, 2008
Location	6900 Atmore Drive
	Richmond, Virginia
Presiding	Sterling C. Proffitt, Chairman
Present	James H. Burrell
	Peter G. Decker, III
	Jacqueline F. Fraser
	Raymond W. Mitchell
	James R. Socas
Absent	W. Alvin Hudson, Jr.
	Gregory M. Kallen
	W. Randy Wright

1:00 p.m., Wednesday, May 21, 2008

6900 Atmore Drive, Richmond, Virginia 23225

The meeting was called to order. The roll was called by Mrs. Woodhouse. Mr. Proffitt noted a quorum was present. Three members were absent, as indicated during the verbal roll call and as noted above.

I. Board Chairman (Mr. Proffitt)

1) Motion to Approve November Board Minutes

The Chairman called for a Motion to approve the November Board Minutes, which approval was deferred from the March meeting.

By **MOTION** duly made by Ms. Fraser and seconded by Mr. Socas, the minutes were **APPROVED** as presented by verbally responding in the affirmative (Burrell, Decker, Fraser, Mitchell). There were no questions and there was no discussion. There were no opposing votes. The Chairman then voted his approval of the Motion. Three members were absent. Mr. Socas did not vote as he was not present at the November meeting. The Motion carried.

2) Motion to Approve March Board Minutes

The Chairman then called for a Motion to approve the March Board Minutes.

By **MOTION** duly made by Mr. Burrell and seconded by Ms. Fraser, the minutes were **APPROVED** as presented by verbally responding in the affirmative (Burrell, Fraser, Mitchell, Socas). There were no questions and there was no discussion. There were no opposing votes. The Chairman then voted his approval of the Motion. Three members

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were absent. Mr. Decker did not vote as he was not present at the March meeting. The Motion carried.

II. Public/Other Comment

The Chairman indicated there was no one present from the public to address the Board.

III. Presentation to the Board (Mr. Johnson)

There were no presentations scheduled for the Board. However, Mr. Johnson mentioned that the Department is facing additional budget cuts. He stated that May is a favorite month for him because he has the opportunity to thank Department employees for their years of State Service during the various annual Service Awards Ceremonies held across the state to honor them.

As one of the Department's budget-reduction strategies, the Department entered into a contract with Wyoming to house some of their inmates. The Department was hoping other states would express an interest in having Virginia house their inmates; however, that has not occurred. He also indicated the Department is currently working with DHS/ICE to explore the possibility of a similar contract to that of Wyoming wherein the Department would house their inmates. Vermont had initially expressed interest in a possible contract but that interest seems to be slipping.

Mr. Johnson introduced Ms. Kim Lipp to speak about the Grayson County project. Ms. Lipp reported that contractors encountered a rare vein of naturally occurring asbestos, and the project was shut down on May 12, 2008. The full extent of the asbestos contamination has not yet been evaluated. She did explain there are two types of naturally occurring asbestos, one that is needle like and one that resembles a serpentine chain. This is the serpentine-chain type and is not airborne when disturbed.

Mr. Johnson noted the Department's 34th Annual Service Awards Ceremony was held on May 2, 2008, with the Board Chairman in attendance. 187 employees were recognized with 25 years of service; 101 employees were recognized with 30 years of service; 23 employees were recognized with 35 years of service; and 1 employee was recognized with 40 years of service. He also commented on the fact that Mr. Jim Camache, Deputy Director for Community Corrections, received the *Governor's Award for Career Achievement*, which award was presented on May 7, 2008.

There were no questions of the Director. No Board action is required.

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IV. Liaison Committee (Mr. Burrell)

Mr. Burrell noted he and members of the Committee met on May 21, 2008, with Mr. Chris Webb chairing the meeting.

He reported that Ms. Robyn DeSocio with the State Compensation Board had given a short presentation addressing state funding and the fact there will be a \$50 million reduction to localities. Ms. Lipp had presented the Committee with an update on state construction projects; being that Deerfield, Pocahontas, Green Rock and St. Brides Phase II are all completed, and the Grayson County project is underway and is estimated for completion in 2010. She mentioned the Charlotte County project, also a PPEA project, will enter its Phase II design phase next month. Estimated completion of that project is 2011. Mr. Wilson reported the out-of-compliance number as 1,550.

Mr. Burrell noted that it does not look like the proposed 120-bed regional jail with Patrick and Henry Counties and the City of Martinsville is going to happen. He indicated the cost for ACA Accreditation was increasing to \$5,500 for those facilities with less than 500 beds. Mr. Barry Green reported the Department has experienced a \$19.2 million cut over the biennium already and an additional reduction of \$6.44 million is expected. To date, the Department has had to absorb a \$25 million shortfall in state funding.

There were no questions, comments or discussion of Mr. Burrell's report. No Board action on the report is required.

V. Administration Committee (Mr. Decker)

As neither Mr. Kallen nor Mr. Wright were available for the Committee meeting, Mr. Decker presented the agenda item to the full Board for review and any action.

1) FY2008 3rd Quarter Overtime Report for Period Ended March 31, 2008

Again this quarter, overtime was up during this period as compared to the same period last year. A majority of the increase was attributed to the manhunt and capture of the escaped inmate from Dillwyn Correctional Center last fall and the Department will be requesting special funding from the Governor to recoup some of the costs related to that manhunt and capture. Over \$600,000 in overtime costs are associated with that escape.

In general, a number of factors contribute to the ongoing need for overtime. They include, but are not limited to, vacancies, training requirements, disability, military leave, weather-related conditions and security conditions at a facility.

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VI. Correctional Services Committee Report/Policy & Regulations (Ms. Fraser)

The Committee met on May 21, 2008, and discussed several items.

1) Board Motion to Approve Request by Newport News City Jail for Modification of Standard 5.4 of the *Standards for Planning, Design, Construction and Reimbursement of Local Correctional Facilities*

The City of Newport News has acquired a former juvenile detention home within their jurisdiction and is renovating it to house 52 minimum- and medium-security inmates from their jail. Associated with this project is a request from the City to allow modification of the *Standards for Planning, Design, Construction and Reimbursement of Local Correctional Facilities* for *Standard 5.4* as it relates to square footage requirements in cells and dayrooms. The current Standard stipulates “cells or individual rooms shall contain no less than 70 square feet (SF) of space...” and “...open into a dayroom or activity space which contains no less than 35 square feet (SF) of floor space for each cell served.”

This facility was constructed in 1962 prior to the current requirement of 70 SF cells and 35 SF dayrooms per cell becoming a written Standard. The project is designed to comply with all other security requirements and is otherwise anticipated to meet the Standard but is 6.5 SF less than 70 in the cells and 2 SF less than 35 per bed in the dayrooms. Only 21 of the 52 beds are affected.

The Committee supports the request and therefore recommends by ***MOTION*** duly made by Ms. Fraser and seconded by Mr. Burrell, **“To facilitate an operational decision by the Newport News City Jail to renovate a former secure juvenile detention home for housing of work program inmates, the Board of Corrections grants a modification to *Standard 5.4* of the *Standards for Planning, Design, Construction and Reimbursement of Local Correctional Facilities* to allow 63.5 SF in cells and 32 SF per bed in dayrooms in the former juvenile facility they are renovating. This reduction affects no more than 21 of 52 beds in this facility. This modification approval shall not be construed as any current or future variance to Board *Standard 5.4* for this or any other facility.”**

During the call for the question, Mr. Socas enquired as to the logic behind the Standard when it was put in place. Mr. Proffitt indicated there was national discussion at the time (in the late 60s or early 70s) and the 70 SF was settled on as the ideal. Mr. Johnson noted that both the American Correctional Association and the American Jails Association recommended the 70 SF at the time. And Ms. Ballard indicated that once the 70 SF was adopted, it has since been proven in Court that 70

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SF with two bodies does not make for inhumane conditions. Mr. Socas wanted to ensure that this is the case with this approved modification; that this would not be deemed an inhumane condition. It was also explained that inmates are in programs and not in these areas during the day.

The Motion was **APPROVED** by verbally responding in the affirmative (Burrell, Decker, Fraser, Mitchell, Socas). There was no further comment or discussion. There were no opposing votes. The Chairman voted his approval of the Motion. Three members were absent. The Motion carried.

2) **Board Motion to Revise Previously Approved Jail Construction Funding Reimbursement for the Botetourt-Craig Regional Jail**

In November, 2007, the Board approved a Motion for additional state jail construction funding reimbursement for the previously approved Botetourt-Craig Regional Jail due to a cost increase. Since that time and in the process of reviewing the facility's reimbursement request preliminaries, an error was discovered in the cost analysis spreadsheet as presented in November and that approval must now be revised. Total eligible project costs in November, 2007, were \$17,528,052. That number should read \$18,950,232, a difference of \$1,422,180.

The Committee supports the request and therefore recommends by **MOTION** duly made by Ms. Fraser and seconded by Mr. Burrell, that **"The Board of Corrections amends the November, 2007, Motion and approves the Botetourt-Craig Regional Jail's request for the additional State funding for jail construction reimbursement in the amount of 50% of the additional approved projects costs of \$4,339,218 or \$2,169,609. This makes the total eligible project cost \$18,950,232, of which 50% is \$9,475,116. This approval is subject to the availability of funds and in compliance with Sections 53.1-80 through 82 of the Code of Virginia."**

The Motion was **APPROVED** by verbally responding in the affirmative (Burrell, Decker, Fraser, Mitchell, Socas). There was no comment or discussion. There were no opposing votes. The Chairman voted his approval of the Motion. Three members were absent. The Motion carried.

3) **Eastern Shore Regional Jail Follow-Up Inspection**

At the March Correctional Services Committee meeting, representatives from the Eastern Shore Regional Jail were present to discuss window glazing and other issues.

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In good faith, the Board passed a modification to Standard 5.4 B (glazing) and the facility agreed to put bars on the windows to meet the Standard.

The Committee was advised that after the Board meeting in March, Mr. Mark Kirk of the Department's Architectural & Engineering Services Unit visited the facility and noticed that the facility had put up bars, but the bars were secured with security screws. This construction is not acceptable and that fact was pointed out during the visit. In addition, the Department wrote to Mr. James R. Chapman on May 12, 2008, regarding that and other issues.

Mr. Proffitt remarked that this information was disappointing and disturbing. He indicated that construction funding reimbursement is based on certification and if the facility does not meet Standards, they will not be certified and cannot be approved for reimbursement. In the Chairman's view, the negotiations and agreements made in March were made in good faith, and the facility needs to comply.

This item is for informational purposes only and requires no Board action at this time.

4) **Board Motion to Approve Appeal by Blue Ridge Regional Jail (Halifax) of Finding of Non-Compliance on Standard 6VAC15-40-540 of the Minimum Standards for Jails and Lockups**

According to Board Standards, a facility is required to have a health inspection within every 12 months. The jail's last inspection was dated July 24, 2006. The facility was audited on March 13, 2008, where it was found that on June 1, 2007, the facility sent a letter to the Health Department requesting an inspection. Though there is no record of any inspection for 2007, the jail did receive a permit to operate a food establishment that expires on December 31, 2008. Therefore, an inspection would have to have been done in December, 2007, even though the jail received nothing in writing regarding the inspection itself. The BRRJ (Halifax) feels it made a good-faith effort to have an inspection within the time constraints of the Standards but it has no documentation to indicate such and states it has no control over the Health Department.

The Committee agreed with the assessment and therefore recommends by **MOTION** duly made by Ms. Fraser and seconded by Mr. Mitchell, **"That the Board of Corrections finds IN FAVOR OF THE APPEAL by the Blue Ridge Regional Jail (Halifax) and finds the facility to be in compliance with Standard 6VAC15-40-540, thus giving the facility 100% compliance on its annual inspection."**

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The Motion was **APPROVED** by verbally responding in the affirmative (Burrell, Decker, Fraser, Mitchell, Socas). There was no comment or discussion. There were no opposing votes. The Chairman voted his approval of the Motion. Three members were absent. The Motion carried.

5) **Board Motion to Approve Suspension of Certain Unannounced Inspections**

Section 53.1-68 of the Code of Virginia authorizes the Board of Corrections to grant suspensions of annual Life, Health and Safety Inspections if full compliance with Standards has been attained in the jail's Triennial Certification Audit. Since the last approval, two jails have achieved 100% compliance with Board Standards. They are: Southampton County Jail and Hampton Roads Regional Jail.

The Committee agrees with the assessment and recommends by **MOTION** duly made by Ms. Fraser and seconded by Mr. Decker, **"The Board of Corrections, in recognition of the outstanding achievement of 100% compliance with Standards, approves suspension of the 2008 Annual Inspection for the Southampton County Jail and the Hampton Roads Regional Jail."**

The Motion was **APPROVED** by verbally responding in the affirmative (Burrell, Decker, Fraser, Mitchell, Socas). There was no comment or discussion. There were no opposing votes. The Chairman voted his approval of the Motion. Three members were absent. The Motion carried.

6) **Discussion Regarding Patrick County Jail**

Ms. Fraser provided background as to the situation surrounding Patrick County in its quest to build a new jail. She summarized the following: The Board of Supervisors is trying to plan, fund and build a new jail facility. The current jail was constructed around 1910 and has a design capacity of only 8 beds. In 2001, the U.S. Department of Justice conducted a CRIPA investigation and found several serious deficiencies. In 2004, discussions began concerning the formulation of a regional jail to include Patrick and Henry Counties and the City of Martinsville.

In 2007, budget language was included for either a new local jail in Patrick County or for a regional jail comprised of Patrick and Henry Counties and the City of Martinsville. In 2008, language was included for the Southern Virginia Regional Jail Authority, in order to proceed in planning for a regional jail serving Patrick and Henry Counties and the City of Martinsville. The City of Martinsville and Patrick and Henry Counties created the Southern Virginia Regional Jail Authority in the fall of 2007. *However, letters from Martinsville and Henry County stated that they were*

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not able to support a regional jail due to current economic conditions in those localities. On May 5, 2008, Patrick County Jail received an additional letter from the U.S. Department of Justice concerning findings of unconstitutional conditions.

Patrick County realizes it cannot do a regional jail and is modifying materials previously submitted to the Department and will proceed with a plan for a local jail. The locality plans on having the Study to the Department by October in order to be considered by the Board for approval and inclusion in the 2009 Budget Bill.

This briefing was for informational purposes only. No action is required by the Board at this time.

7) **Compliance and Accreditation
Certifications Section**

Ms. Fraser presented the following certification recommendations for consideration on behalf of the Committee:

Unconditional Certification for Southampton County Jail/Farm and Hampton Roads Regional Jail (100% compliance); Unconditional Certification for Chesterfield County Jail; Unconditional Certification for Probation and Parole District 28 (Radford) (100% compliance); and Probationary Certification for 30 days for Piedmont House Residential Program pending receipt of their corrective Plans of Action for 19 deficiencies, 6 of which were Life, Health and Safety Standards. A letter to that effect will be sent to the Board of Directors of the facility.

By **MOTION** duly made by Ms. Fraser and seconded by Mr. Mitchell, the Board **APPROVED** the above recommendations by verbally responding in the affirmative (Burrell, Decker, Fraser, Mitchell, Socas). There were no questions, comments or discussion. There were no opposing votes. The Chairman then voted his approval of the Motion. Three members were absent. The Motion carried.

8) **Policy & Regulations**

Standards for Planning, Design, Construction and Reimbursement (6VAC 15-80)

These regulations are currently under review by the Office of the Secretary of Public Safety. This is informational only. No action by the Board is required.

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VII. Closed Session

No Closed Session was held.

VIII. Other Business

There was no other business.

IX. Board Member/Other Comment

The members were polled. Ms. Fraser indicated she had nothing and suggested to keep the Board meetings to one day. Mr. Burrell agreed with that suggestion. Mr. Socas asked for data from the Department to help the Board understand prison population plans. He noted there was a series of articles recently in the Washington-Post on this subject, which he has at home and which he will forward to the Board for their review and discussion at a future time. Mr. Proffitt indicated he had attended the Spring Conference for the Virginia Association of Regional Jails in Virginia Beach, which conference was well run and which offered excellent training.

X. Future Meeting Plans

In November, the Board discussed and approved that it would hold its meetings all on one day beginning with the March, 2008, Board meeting, and the meeting day would begin at 10:00 a.m. It was also agreed the March and May meetings would be conducted in this manner to see if the one-day schedule would work for everyone. The Board must now decide whether to stay with the one-day schedule. Comments from the members were positive for keeping the meetings to one day, and staff indicated the schedule was not creating any problems. The only suggested change was to move the Liaison Committee Meeting start to 9:30 a.m. That change was agreed to by members present.

Therefore, by **MOTION** duly made by Mr. Socas and seconded by Ms. Fraser, it was **APPROVED to keep the Board and its Committee meetings to a one-day schedule.** The only change to the already-published schedule will be to move the start of the Liaison Committee Meeting to 9:30 a.m.

Messrs. Burrell, Decker, Mitchell and Socas and Ms. Fraser verbally responded in the affirmative in support of the motion. There were no questions, comments or discussion. There were no opposing votes. The Chairman then voted his approval of the Motion. Three members were absent. The Motion carried.

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Therefore, the following information is provided for the purposes of the record to include the revised meeting time for the Liaison Committee:

The July 16, 2008, meetings are scheduled as follows:

Liaison Committee – 9:30 a.m., Board Room, 6900 Atmore Drive, Richmond, Virginia;
Correctional Services/Policy & Regulations Committee – 11:00 a.m., Board Room, 6900 Atmore Drive, Richmond, Virginia;

Administration Committee – 12:30 p.m., Board Room, 6900 Atmore Drive, Richmond, Virginia;

And Board Meeting – 1:00 p.m., Board Room, 6900 Atmore Drive, Richmond, Virginia.

The Chairman then went on to recognize Mr. Charlie Poff from the Western Virginia Regional Jail. And Mr. Barry Green was in attendance from the Office of the Secretary of Public Safety.

XI. Adjournment

There being nothing further, by **MOTION** duly made by Mr. Burrell, seconded by Ms. Fraser and unanimously **APPROVED** (Burrell, Decker, Fraser, Mitchell, Socas), the meeting was adjourned. There was no discussion. The Chairman voted his approval of the move to adjourn. Three members were absent. The Motion carried.

STERLING C. PROFFITT, CHAIRMAN

RAYMOND W. MITCHELL, SECRETARY